

# **EXECUTIVE COUNCIL OF IOWA AGENDA**

**State Capitol - Robert D. Ray Conference Room (G09) 10:00 a.m.**

**March 2, 2020**

1. Approval of minutes from meeting held on February 17, 2020
2. Iowa Code §7D.10 – Page 1  
**TAB # 1**
3. Special Counsel – Page 1  
**TAB # 2**
4. Leases – Pages 1-2
5. Emergency Allocations – Page 3
6. Payment of Cost Items – Pages 3-4

**2. Iowa Code §7D.10**

- A. Attorney General's office requests Payment for Expenses under Iowa Code §7D.10 in the amount of \$7,442.47.

**TAB # 1**

**3. Special Counsel**

- A. The Department of Justice, Attorney General's Office, requests retention of special counsel pursuant to Iowa Code section 13.7(1) to represent the State of Iowa in criminal cases when the offenses are committed by non-natives against non-natives (or without a victim) on the Sac and Fox Indian Settlement in Tama County through June 30, 2020. The Office also suggests a review of the on-going caseload and appropriate compensation at the end of the fiscal year.

Attorney: Michael Marquess  
Garwin, Iowa

Rate: \$5,000.00 per month retainer plus litigation expenses

**TAB # 2**

**4. Leases**

- A. Lease between DNR and Linwood Mining & Minerals Corporation  
Date of Lease: December 1, 2019 to November 30, 2024  
Legal Description: A portion of the bed of the Mississippi River approximately 450 feet in frontage and 65 feet in depth at Mississippi River Mile 475.2, located in the NW ¼ of Section 24, Township 77 North, Range 2 East of the 5<sup>th</sup> P.M., Scott County, Iowa.  
Purpose: Commercial Use  
Annual Fee: \$2,700.00

Michael J. Moss, Assistant Attorney General, has reviewed the above lease and recommends approval.

B. Lease between DNR and SCF Fleeting LLC

Date of Lease: March 1, 2020 to February 28, 2025

Legal Description:

For Area 3: is located at Mississippi River Mile 470. It has a capacity of 34 barges anchored in 2 groups with 1 anchor barge each. Barges will be moored 9 wide by 2 long (approximately 315 feet of depth by 400 feet of frontage in each group).

For Area 8: is located at Mississippi River Mile 472. It has a capacity of 17 barges anchored with 1 anchor barge. Barges will be moored 6 wide by 3 long (approximately 210 feet of depth by 600 feet of frontage).

Barges may not be fleeted or otherwise moored at Area 8 (River Mile 472) from May 1 through September 30. In addition, the anchor barge will be removed from the area during the period of May 1 through September 30.

Purpose: Barge Fleeting

Annual Fee:

Area 3: \$4,852.23

Area 8: prorated annual fee of \$2,830.47 (due to seasonal fleeting restrictions)

Michael J. Moss, Assistant Attorney General, has reviewed the above lease and recommends approval.

C. Lease between DNR and Cargill, Incorporated

Date of Lease: March 1, 2020 to February 28, 2025

Legal Description: The part of the bed of the Mississippi River at River Mile 469.8 located in Section 19, Township 77 North, Range 2 East of the 5<sup>th</sup> P.M., Scott County, Iowa, described as commencing at a point on the southerly boundary of Tract No. Fla-51 approximately 25 feet west of the line between Government Lots 3 and 4; thence easterly 100 feet to a point on said southerly boundary line of Tract Fla-51, and extending southerly into the Mississippi River 100 feet from the ordinary high water line.

Purpose: Loading and unloading barges

Annual Fee: \$600.00

Michael J. Moss, Assistant Attorney General, has reviewed the above lease and recommends approval.

**5. Emergency Allocations**

- A. Board of Regents – University of Iowa is requesting an emergency allocation and reimbursement in the amount \$24,938.37. On April 4, 2019 a break in the chilled water line at Gilmore Hall caused water damage. Request is to cover repair costs.

The State Auditor's Office has reviewed this request and recommends allocation and payment. This represents full and final payment and this allocation closed.

- B. Department of Administrative Services is requesting an emergency allocation in the amount \$9,169.87. On December 2, 2019 Vehicle #400 was damaged by a deer. Request is to cover repair costs.

The State Auditor's Office has reviewed request and recommends allocation, subject to audit of actual invoices.

- C. Iowa Communications Network is requesting an emergency allocation in the amount of \$4,500.00. On September 14, 2019 ICN high winds damaged that HVAC system. Request is to cover repair costs.

The State Auditor's Office has reviewed this request and recommends allocation, subject to audit of actual invoices and supporting documentation and demonstration that no costs covered by the maintenance contract have been included.

**6. Payment of Cost Items**

- A. Department of Natural Resources .....\$41.00  
Drainage taxes for the following counties:

Cerro Gordo	\$41.00
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Michael J. Moss, Assistant Attorney General, has reviewed this request and recommends payment.

- B. Davis Brown Law Firm.....\$1,250.00  
215 10th Street, Suite 1300  
Des Moines, IA 50309-3993  
Unclaimed Property Probate Matters & Employee Retirement Income Security Act (ERISA)

Jeffrey S. Thompson, Solicitor General, has reviewed this invoice and recommends payment. Payment will be made from the Unclaimed Property Fund.

- C. Davis, Brown, Koehn, Shors & Roberts, P.C.....\$337.20  
The Davis Brown Tower  
215 10<sup>th</sup> Street, Suite 1300  
Des Moines, IA 50309-3993  
Legal Services to state agencies on issues related to the visa status of  
prospective state employees

Jeffrey S. Thompson, Solicitor General, has reviewed this invoice and recommends payment. Payment will be made from the funds of the Iowa Department of Justice.

- D. Simmons Perrine Moyer Bergman PLC.....\$300.00  
115 Third Street SE, Suite 1200  
Cedar Rapids, IA 52401  
Tobacco Settlement Authority

Jeffrey S. Thompson, Solicitor General, has reviewed this invoice and recommends payment. Payment will be made from the Tobacco Settlement Authority.

THOMAS J. MILLER  
ATTORNEY GENERAL

ERIC TABOR  
CHIEF DEPUTY ATTORNEY GENERAL



IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

TAB # 1

1305 E. WALNUT ST.  
DES MOINES, IA 50319  
Main: 515-281-5164 • Direct: 515-281-5191  
Email: Eric.Tabor@ag.iowa.gov  
www.iowaattorneygeneral.gov

February 18, 2020

EXECUTIVE COUNCIL

FEB 19 2020

Ms. Victoria Newton  
Executive Secretary  
Executive Council  
State Capitol  
L-O-C-A-L

Re: Request for Payment of SVP Court Costs

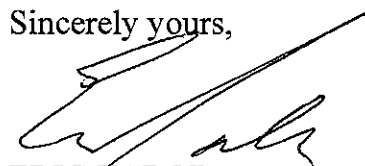
Dear Victoria:

Our Office requests Executive Council approval for payment pursuant to Iowa Code section 7D.10 for court costs and expenses incurred in prosecuting civil commitments under Iowa Code chapter 229A for the Sexually Violent Predator (SVP) program.

In addition to the cost of employee salaries, travel and support devoted to this program, the Office incurs substantial expenses for expert witnesses. These expenses have increased substantially due to the growing number of chapter 229A commitments. Section 7D.10 authorizes payment of court costs and expenses by the Executive Council "[i]f sufficient funds for court costs have not been appropriated to a state department, or if sufficient funds are not otherwise available for such purposes within the budget of a state department." There is no specific appropriation for these expenses and sufficient funds are not otherwise available.

Therefore, pursuant to Iowa Code section 7D.10, the Office requests Executive Council approval of payment of \$7,442.47 for record review/report preparation (invoices enclosed).

Sincerely yours,



ERIC TABOR  
Chief Deputy

Encl.

THOMAS J. MILLER  
ATTORNEY GENERAL



ERIC TABOR  
CHIEF DEPUTY ATTORNEY GENERAL

1305 E. WALNUT ST.  
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IOWA DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL

February 26, 2020

EXECUTIVE COUNCIL  
FEB 27 2020

Victoria Newton  
Administrative Secretary  
Executive Council  
State Capitol  
L-O-C-A-L

Re: Retention of Special Counsel – Prosecution of Non-Native Offenses Occurring on  
Sac and Fox Indian Settlement

Dear Ms. Newton:

Pursuant to Iowa Code section 13.7(1), the Office of Attorney General (“Office”) requests the Executive Council to authorize the employment of Special Counsel to represent the State of Iowa in criminal cases when the offenses are committed by non-natives against non-natives (or without a victim) on the Sac and Fox Indian Settlement in Tama County.

Here is some background on this request: A 1948 act of Congress granted the State of Iowa jurisdiction over all criminal offenses committed on the Settlement. A recent act of Congress returned to tribal authorities the criminal jurisdiction of crimes committed on the Settlement by or against natives. The issue has become - who should bear the cost of prosecution of crimes committed by non-natives on the Settlement, which is considered a sovereign nation? Tama County officials believe the costs of bringing these criminal cases on behalf of the State of Iowa should be borne by the State of Iowa, not Tama County.

The Office believes alleged crimes committed by non-natives on the Settlement should be diligently prosecuted. In the interest of public safety and equal administration of justice, the Office agrees that it is appropriate to pay these costs from the General Fund, as described below. The Office does not have sufficient funds for this purpose within its budget.

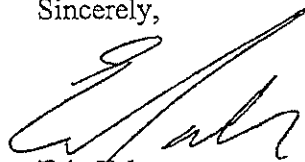
Previously, the Executive Council agreed to reimburse the Office for the costs of a part-time assistant attorney general to handle these cases. This attorney no longer desires to do this work. Instead, the Office requests authorization to employ attorney Michael Marquess of Garwin, IA as Special Counsel. Mr. Marquess has a unique and valuable set of skills for this position. He has been a criminal prosecutor in Marshall County and in Tama County, a lead prosecutor for the Sac and Fox Tribe, a Magistrate Judge in Poweshiek County, and now is in private practice in Toledo, Iowa.

If made Special Counsel, Mr. Marquess will be giving up his criminal defense practice. Due to the uncertainty and variability of hours needed to handle these cases, Mr. Marquess is requesting a \$5000/month retainer plus litigation expenses to cover this caseload and to backfill his private practice. These costs would be paid from the General Fund. The Office believes this is a reasonable rate of compensation. The Office also suggests a review of the on-going caseload and appropriate compensation at the end of this fiscal year.

In summary, the Office requests authorization to employ Michael Marquess as Special Counsel for the purposes and compensation stated above through June 30, 2020.

We appreciate your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Eric Tabor", written over a horizontal line.

Eric Tabor  
Chief Deputy